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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,361	07/22/2003	Jeffrey Powell	13860 B	9213
26637	7590	07/15/2005	EXAMINER BATSON, VICTOR D	
CNH AMERICA LLC INTELLECTUAL PROPERTY LAW DEPARTMENT 700 STATE STREET RACINE, WI 53404			ART UNIT 3671	PAPER NUMBER

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,361

Applicant(s)

POWELL ET AL.

Examiner

Victor Batson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22, 23 and 25-38 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 22, 23 and 25-38 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25,32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 25, "said first pivoting location" lacks proper antecedent basis. In claim 32 line 1, "said first pivoting portion" lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

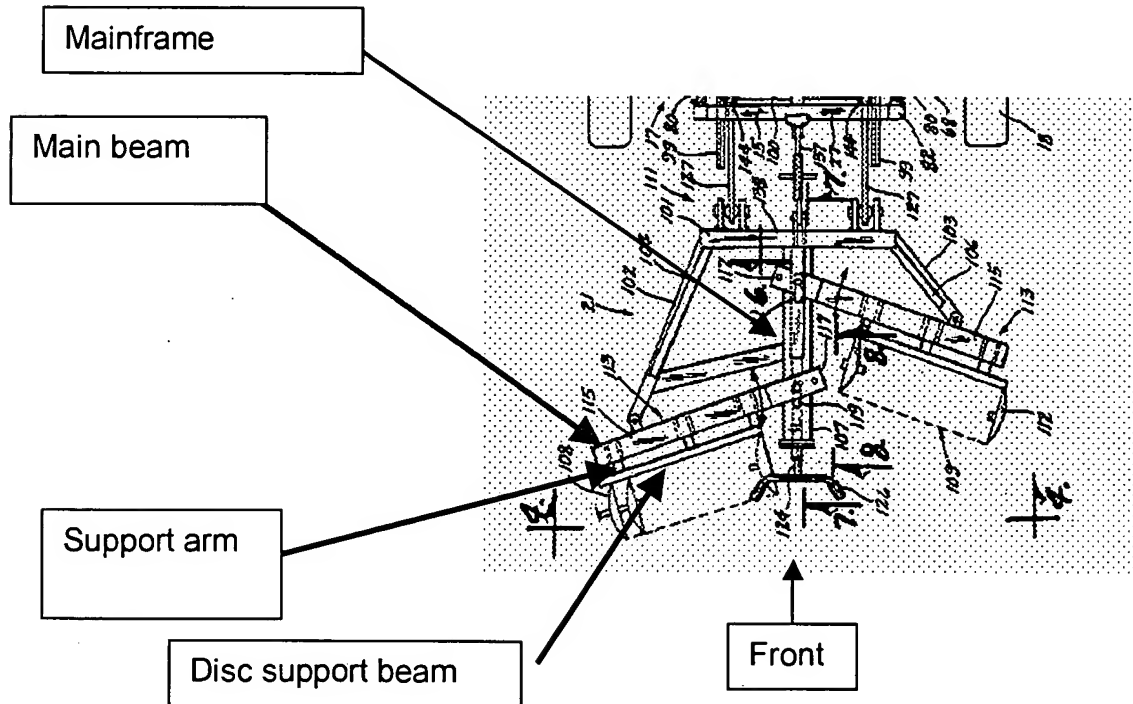
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 27,28,34,35,36 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Mill (5,590,721).

Van Mill discloses a seed preparation implement including a mainframe, a plurality of plow shanks and a plurality of rotating discs of a disc gang, with the disc gang angle being adjustable through a pin that slides within an elongated slot 119,121, with the other end of the disc gang being pivotally connected (not numbered, but shown in figure 2) to member 102, to pivot about a vertical axis. Van Mill further discloses the use of an actuator 137 for raising and lowering the disc support beam, and the various

frame members as identified below. Given the structure of Van Mill, the claimed method steps would inherently be performed.



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22,23,25,26,29,30,31,32,33 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Mill (5,590,721) in view of Fueslein et al. (3,648,780).

Van Mill discloses a seed preparation implement including a mainframe, a plurality of plow shanks and a plurality of rotating discs of a disc gang, with the disc gang angle being adjustable through a pin that slides within an elongated slot 119,121, with the other end of the disc gang being pivotally connected (not numbered, but shown in figure 2) to member 102, to pivot about a vertical axis. Van Mill further discloses the use of an actuator 137 for raising and lowering the disc support beam. Van Mill however lacks an actuator extending wholly between a disc gang main beam and the mainframe for adjusting the gang angle.

Fueslein et al. teaches that it is known in the art for a disc gang to be moved and angled by actuating an actuator 97,100 extending between a main frame and a disc gang main beam (fig. 2). The use of an actuator (such as a hydraulic cylinder) as taught by Fueslein et al., allows for easy and infinite adjustment and for the operator to position the disc gang from a remote location such as from a tractor seat.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Van Mill by using an actuator such as a hydraulic cylinder positioned between the disc gang main beam and the main frame as taught by Fueslein et al., to allow the disc gangs to be positioned from a remote location. The combination renders the claimed method steps obvious since such would be a logical manner of using the combination. Concerning claim 31, it is the examiner's

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position that it would have been obvious to modify all 4 of the disc gangs of Van Mill by providing a positioning means as set forth by Fueslein et al..

Claims 37,38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clifford et al. (3,223,178) in view of Van Mill (5,590,721).

Clifford et al. discloses a device for tilling soil including a plurality of rotating discs of a pair of adjacent disc gangs 12,14 pivotally connected to the mainframe with the disc gangs capable of gang angle adjustment that would allow disc gangs to be brought into alignment. Clifford et al. however lacks including a plurality of plow shanks.

Van Mill teaches that it is known in the art for a cultivating device that uses disc gangs to also include a plurality of plow shanks. The use of plow shanks with disc gangs is a popular expedient that allows for operation in varying soil terrain (col. 1):

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Clifford et al., by providing a plurality of plow shanks since such is a popular expedient that allows for operation in varying soil terrain.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 13, 2005



Victor Batson
Primary Examiner
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